

## **REMARKS**

### **I. Introduction**

Claims 7-13 have been amended and are currently pending in the present application. No new matter has been added.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and the indication that all certified copies of the priority documents have been received. Applicants respectfully request that the next Official Communication **indicate whether the drawings which were previously submitted are accepted.**

### **II. Claim Objections**

The Examiner objected to claims 7-13 based on informalities. Independent claims 7 and 13 have been amended without prejudice so as to render the objection to the claims moot. Withdrawal of the objection is respectfully requested.

### **III. Rejections under § 102(e)**

Claims 7 and 13 were rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Application No. 2004/0158376 ("Knueppel"). Applicants submit that claims 7 and 13 are allowable for at least the following reasons.

In order to reject a claim under 35 U.S.C. § 102(e), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)). To the extent that the Examiner may be relying on the doctrine of inherent disclosure, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain

result or characteristic may occur in the prior art does not establish the inherence of that result or characteristic.

As amended, claim 7 recites, in relevant parts, “at least one vehicle sensor located outside of the control unit; wherein the control unit is configured to **check a crash signal generated by at least a first one of a plurality of crash sensors against a first plausibility signal received from the at least one vehicle sensor** and to trigger the restraint device as a function of the crash signal and the first plausibility signal, and wherein **only the plurality of crash sensors is configured to generate the crash signal**.” Amended claim 13 recites substantially similar features as the above-recited features of claim 7.

In support of the rejection, the Examiner cites Figure 1 of Knueppel, which shows a plurality of sensor modules, each of which includes a plausibility check. According to Knueppel, the plausibility checks are used to provide a decision whether to deploy a restraint after one of the sensor modules indicates a firing condition. Based on this disclosure, it is apparent that Knueppel does not disclose performing **a plausibility check using a separate set of sensors**, e.g., the recited “**vehicle sensors**.” Instead of using a plausibility signal from a vehicle sensor, which is **not involved in the actual generating of the crash signal**, Knueppel uses **the same sensors** for both indicating the firing condition and performing plausibility checks. Therefore, Knueppel does not disclose or suggest the feature “**only the plurality of crash sensors is configured to generate the crash signal**.” In contrast, claims 7 and 13 provide that between the at least one vehicle sensor and the plurality of crash sensors, “**only the plurality of crash sensors is configured to generate the crash signal**.”

In view of all of the foregoing, withdrawal of the anticipation rejection of claims 7 and 13 is respectfully requested.

#### IV. **Rejection of Claims 8-12 under 35 U.S.C. § 103(a)**

Claims 8-12 were rejected under 35 U.S.C. § 103(a) as being rendered obvious by Knueppel in view of U.S. Application No. 2004/0039509 (“Breed”). Applicants submit that claims 8-12 are allowable for at least the following reasons.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28

U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to [modify] the [prior art] elements” in the manner claimed. See KSR Int’l Co. v. Teleflex, Inc., 82 U.S.P.Q.2d 1385 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” Id., at 1396. To the extent that the Examiner may be relying on the doctrine of inherent disclosure in support of the obviousness rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Claims 8-12 ultimately depend on claim 7. Breed fails to remedy the deficiencies of Knueppel as applied against parent claim 7. Accordingly, claims 8-12 are allowable for the same reasons as claim 7.

In addition to the above, claims 8 and 10 respectively recite that the at least one vehicle sensor is part of a **vehicle dynamics control system** and a **knock control system**. The Examiner contends that these features are disclosed in paragraphs [0322] and [0574] of Breed. However, the cited sections only mention that a group of **acceleration sensors** can be used in combination to perform crash sensing and vehicle diagnostics. Breed does not suggest that the acceleration sensors include a sensor of a vehicle dynamics control system or a knock control system; instead, as shown in the list of paragraph [0323], it is apparent that **specific combinations** of sensors are used for **different** purposes. Conspicuously absent from the disclosure of Breed is any suggestion that either a vehicle dynamics control system or a knock control system is included in a sensor combination used to perform a **plausibility check** of a crash signal.

Accordingly, claims 8 and 10, as well as dependent claims 9 and 11, are not rendered obvious by the overall teachings of Knueppel and Breed for these additional reasons.

In view of all of the foregoing, withdrawal of the obviousness rejection of claims 8-12 is respectfully requested.

**CONCLUSION**

In light of the foregoing, it is respectfully submitted that all of the presently pending claims 7 to 13 under consideration are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

 (R. No. 35,952)

Dated: August 31, 2009

By: JONG LEE for Gerard Messina  
Gerard A. Messina  
Reg. No. 35,952

KENYON & KENYON LLP  
One Broadway  
New York, New York 10004  
(212) 425-7200  
**CUSTOMER NO 26646**